

APPEAL,CLOSED,JURY,PROSE-NP,TYPE I-FOIA
U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-02823-CJN

AGUIAR v. EXECUTIVE OFFICE OF UNITED STATES
ATTORNEYS
Assigned to: Judge Carl J. Nichols
Cause: 05:552 Freedom of Information Act

Date Filed: 11/30/2018
Date Terminated: 07/27/2020
Jury Demand: Plaintiff
Nature of Suit: 550 Prisoner Petition: Civil
Rights (Other)
Jurisdiction: U.S. Government Defendant

Plaintiff

STEPHEN AGUIAR

represented by **STEPHEN AGUIAR**
R03722-082
PETERSBURG
FEDERAL CORRECTIONAL
INSTITUTION
Inmate Mail/Parcels
P.O. BOX 1000
PETERSBURG, VA 23804-1000
PRO SE

V.

Defendant

**EXECUTIVE OFFICE OF UNITED
STATES ATTORNEYS**

represented by **Denise M. Clark**
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TERMINATED: 11/26/2019
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TERMINATED: 05/15/2020
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Date Filed	#	Docket Text
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11/30/2018		Initiating Pleading & IFP Application Received on 11/30/2018. A copy of the docket sheet has been mailed to the address of record for the pro se party. (zrdj) (Entered: 12/07/2018)
11/30/2018	<u>1</u>	COMPLAINT against EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS with Jury Demand filed by STEPHEN AGUIAR.(zrdj) (Entered: 12/07/2018)
11/30/2018	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by STEPHEN AGUIAR (zrdj) (Entered: 12/07/2018)
11/30/2018	<u>3</u>	PRISONER TRUST FUND ACCOUNT STATEMENT for period of six months by STEPHEN AGUIAR (zrdj) (Entered: 12/07/2018)
01/09/2019	<u>4</u>	ORDER directing an initial partial filing fee in the amount of \$0.00 from Prison Account of STEPHEN AGUIAR and granting <u>2</u> MOTION for Leave to Proceed In Forma Pauperis (see order for full details). Pro Se party has been notified by first class mail. Signed by Judge Randolph D. Moss on 12/31/2018. (zrdj) (Entered: 01/10/2019)
01/11/2019		Case Reassigned to Judge Ketanji Brown Jackson. Unassigned is no longer assigned to the case. (zrdj) (Entered: 01/11/2019)
01/15/2019	<u>5</u>	SUMMONS (3) Issued as to EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS, U.S. Attorney and U.S. Attorney General (zrdj) (Entered: 01/15/2019)
05/30/2019		MINUTE ORDER: The Deputy Clerk shall reissue the summons and provide it and the FOIA complaint to the United States Marshals Service, which shall promptly serve process upon the agency defendant and the United States. SO ORDERED. Signed by Judge Ketanji Brown Jackson on 5/30/19.(ah) (Entered: 05/30/2019)
06/07/2019		SUMMONS (3) REISSUED as to EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS, and non-parties U.S. Attorney and U.S. Attorney General (zmc) (Entered: 06/10/2019)
06/17/2019	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/10/2019. Answer due for ALL FEDERAL DEFENDANTS by 7/10/2019. (jf) (Entered: 06/18/2019)
06/24/2019		Case directly reassigned to Judge Carl J. Nichols. Judge Ketanji Brown Jackson is no longer assigned to the case. (ztnr) (Entered: 06/24/2019)
07/03/2019	<u>7</u>	MOTION for Extension of Time to <i>Respond to Complaint</i> by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS (Clark, Denise) (Entered: 07/03/2019)
07/09/2019	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS served on 6/19/2019, RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 6/19/19. (ztd) (Entered: 07/12/2019)
07/17/2019		MINUTE ORDER. Upon consideration of Defendant's <u>7</u> Motion for Extension of Time to Respond to Complaint, it is hereby ORDERED that the Motion is GRANTED and that the deadline is extended to August 23, 2019. It is further ORDERED that the Clerk shall mail a copy of this Minute Order to the Plaintiff's address on record. Signed by Judge Carl J. Nichols on July 17, 2019. (lccjn1) (Entered: 07/17/2019)
07/17/2019		Set/Reset Deadlines/Hearings: Answer to Complaint due by 8/23/2019. (zcdw) (Entered: 07/22/2019)
08/23/2019	<u>9</u>	ANSWER to <u>1</u> Complaint by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS.(Clark, Denise) (Entered: 08/23/2019)
08/23/2019		MINUTE ORDER. Before the Court in this Freedom of Information Act case are an incarcerated Plaintiff's <i>pro se</i> Complaint and an Answer. The requirements of Local Civil Rule 16.3 and Federal Rule of Civil Procedure 26(f) appear to be inapplicable. It is hereby ORDERED that Defendant shall file a Status Report on or before September 20, 2019. The Status Report shall address: (1) the status of Plaintiff's FOIA request; (2) the anticipated number of documents responsive to Plaintiff's FOIA request; (3) the anticipated date(s) for release of the documents requested by Plaintiff; (4) whether a

		motion for stay is likely under <i>Open America v. Watergate Special Prosecution Force</i> , 547 F.2d 605 (D.C. Cir. 1976); and (5) whether the Parties anticipate summary judgment briefing and, if so, a proposed briefing schedule. Signed by Judge Carl J. Nichols on August 23, 2019. (lccjn1) (Entered: 08/23/2019)
08/23/2019		Set/Reset Deadlines/Hearings: Defendant's Status Report due by 9/20/2019. (zcdw) (Entered: 08/25/2019)
09/20/2019	<u>10</u>	STATUS REPORT by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS. (Clark, Denise) (Entered: 09/20/2019)
09/23/2019		MINUTE ORDER. In light of Defendant's <u>10</u> Status Report, it is hereby ORDERED that (1) on or before December 10, 2019, Defendant shall file its Motion for Summary Judgment; (2) on or before February 10, 2020, Plaintiff shall file his Opposition to Defendant's Motion and his Cross Motion for Summary Judgment; (3) on or before March 10, 2020, Defendant shall file its Reply to Plaintiff's Opposition and its Opposition to Plaintiff's Cross Motion for Summary Judgment; and (4) on or before April 10, 2020, Plaintiff shall file his Reply to Defendant's Opposition. Signed by Judge Carl J. Nichols on September 23, 2019. (lccjn1) (Entered: 09/23/2019)
09/23/2019		Set/Reset Deadlines/Hearings: Defendant's Summary Judgment motion due by 12/10/2019. Response to Motion for Summary Judgment due by 2/10/2020. Reply to Motion for Summary Judgment due by 3/10/2020. Plaintiff's Cross Motion due by 2/10/2020. Response to Cross Motion due by 3/10/2020. Reply to Cross Motion due by 4/10/2020. (zcdw) (Entered: 09/24/2019)
11/26/2019	<u>11</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Michelle D. Jackson on behalf of All Defendants Substituting for attorney Denise M. Clark (Jackson, Michelle) (Entered: 11/26/2019)
12/09/2019	<u>12</u>	MOTION for Extension of Time to File by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS (Attachments: # <u>1</u> Text of Proposed Order)(Jackson, Michelle) (Entered: 12/09/2019)
12/11/2019		MINUTE ORDER. After review of Defendant's <u>12</u> Motion for Extension, it is hereby ORDERED that the Motion is GRANTED IN PART. It is further ORDERED that (1) on or before January 9, 2020, Defendant shall file its Motion for Summary Judgment; (2) on or before March 11, 2020, Plaintiff shall file his Opposition to Defendant's Motion and his Cross-Motion for Summary Judgment; (3) on or before April 9, 2020, Defendant shall file its Reply to Plaintiff's Opposition and its Opposition to Plaintiff's Cross-Motion for Summary Judgment; and (4) on or before May 11, 2020, Plaintiff shall file his Reply to Defendant's Opposition. Signed by Judge Carl J. Nichols on December 11, 2019. (lccjn1) (Entered: 12/11/2019)
01/08/2020	<u>13</u>	MOTION for Extension of Time to <i>File Motion for Summary Judgement</i> by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS (Attachments: # <u>1</u> Text of Proposed Order)(Jackson, Michelle) (Entered: 01/08/2020)
01/09/2020		MINUTE ORDER. After review of Defendant's <u>13</u> Motion for Extension, it is hereby ORDERED that, because of the amount of time this case has been pending, the Motion is GRANTED IN PART. It is further ORDERED that (1) on or before February 6, 2020, Defendant shall file its Motion for Summary Judgment; (2) on or before April 8, 2020, Plaintiff shall file his Opposition to Defendant's Motion and his Cross-Motion for Summary Judgment; (3) on or before May 7, 2020, Defendant shall file its Reply to Plaintiff's Opposition and its Opposition to Plaintiff's Cross-Motion for Summary Judgment; and (4) on or before June 8, 2020, Plaintiff shall file his Reply to Defendant's Opposition. Barring exceptional circumstances, the Court will not grant Defendant further extensions of time. Signed by Judge Carl J. Nichols on January 9, 2020. (lccjn1) (Entered: 01/09/2020)
01/09/2020		Set/Reset Deadlines/Hearings: Defendant's Summary Judgment motion due by 2/6/2020. Response to Motion for Summary Judgment due by 4/8/2020. Reply to Motion for Summary Judgment due by 5/7/2020. Plaintiff's Cross Motion due by 4/8/2020. Response to Cross Motion due by 5/7/2020. Reply to Cross Motion due by 6/8/2020. (zcdw) (Entered: 01/10/2020)

02/03/2020	<u>14</u>	MOTION for Summary Judgment by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Declaration)(Jackson, Michelle) (Entered: 02/03/2020)
03/20/2020	<u>15</u>	MOTION for Vaughn Index, MOTION to Dismiss re <u>14</u> MOTION for Summary Judgment, MOTION for Extension of Time by STEPHEN AGUIAR (eg) (Entered: 03/24/2020)
04/09/2020		MINUTE ORDER. On March 20, 2020, Plaintiff Aguiar filed a <u>15</u> Motion for a Vaughn Index and to Dismiss Plaintiff's [sic] Motion for Summary Judgment as Premature or, in the Alternative, Motion for an Enlargement of Time. To date, the government has not filed an opposition to Aguiar's <u>15</u> Motion. As a result, it is hereby ORDERED that on or before April 17, 2020, the government shall file a brief outlining why the Court should not grant Aguiar's <u>15</u> Motion for a Vaughn index. It is further ORDERED that Aguiar's Motion to Dismiss the government's Motion for Summary Judgment as Premature is DENIED. It is further ORDERED that Aguiar's Motion for an Enlargement of time is GRANTED and that (1) on or before June 5, 2020, Aguiar shall file his Opposition to the government's <u>14</u> Motion for Summary Judgment; and (2) on or before July 6, 2020, the government shall file its Reply in support of its <u>14</u> Motion. The Clerk of Court is DIRECTED to mail a copy of this Minute Order to Aguiar. Signed by Judge Carl J. Nichols on April 9, 2020. (lccjn1) (Entered: 04/09/2020)
04/09/2020		Set/Reset Deadlines/Hearings: Defendant's brief due by 4/17/2020. Plaintiff's response to <u>14</u> due by 6/5/2020. Defendant's reply due by 7/6/2020. (zcdw) (Entered: 04/09/2020)
04/16/2020	<u>16</u>	Memorandum in opposition to re <u>15</u> MOTION for Vaughn Index MOTION to Dismiss MOTION for Extension of Time to filed by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS. (Attachments: # <u>1</u> Certificate of Service)(Jackson, Michelle) (Entered: 04/16/2020)
04/27/2020	<u>17</u>	MOTION to Hold in Abeyance, MOTION for Order by STEPHEN AGUIAR (eg) (Entered: 04/29/2020)
04/27/2020	<u>18</u>	NOTICE to the Court by STEPHEN AGUIAR (eg) (Entered: 04/29/2020)
05/01/2020		MINUTE ORDER. On March 20, 2020, Plaintiff Aguiar filed a <u>15</u> Motion for a Vaughn Index, and on April 16, the government filed its <u>16</u> Opposition to Aguiar's <u>15</u> Motion for a Vaughn Index. On April 27, Aguiar filed a <u>17</u> Motion to Hold this Case in Abeyance or, in the Alternative, Issue an Order Directing Warden J. Andrews of FCC Petersburg Medium to Allow Plaintiff Reasonable Access to the Law Computer and a Typewriter to Allow Plaintiff to Respond to the Defendant's Pending Filings. After review of Aguiar's <u>15</u> Motion for a Vaughn Index, it is hereby ORDERED that Aguiar's <u>15</u> Motion is DENIED. Aguiar can make his arguments challenging the sufficiency of the government's <u>14</u> Motion for Summary Judgment filing in his Opposition to that Motion. After review of Aguiar's <u>17</u> Motion, it is hereby ORDERED that his requests to hold this case in abeyance and to order the Warden of FCC Petersburg to permit him access to a law computer and a typewriter are DENIED. However, based on Aguiar's lack access to a law computer and a typewriter at FCC Petersburg during the COVID-19 pandemic, it is ORDERED that (1) on or before July 7, 2020, Aguiar shall file his Opposition to the government's <u>14</u> Motion for Summary Judgment; and (2) on or before August 6, 2020, the government shall file its Reply in support of its <u>14</u> Motion. The Clerk of Court is DIRECTED to mail a copy of this Minute Order to Aguiar. Signed by Judge Carl J. Nichols on May 1, 2020. (lccjn1) (Entered: 05/01/2020)
05/01/2020		Set/Reset Deadlines/Hearings: Response to <u>14</u> due by 7/7/2020. Reply due by 8/6/2020. (zcdw) (Entered: 05/03/2020)
05/15/2020	<u>19</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Kristin Brudy-Everett on behalf of EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS Substituting for attorney Michelle D. Jackson (Brudy-Everett, Kristin) (Entered: 05/15/2020)
06/08/2020	<u>20</u>	MOTION to Update Address by STEPHEN AGUIAR. "Let this be filed as a "Motion to Update Address"" Signed by Judge Carl J. Nichols on June 8, 2020 (eg) (Entered: 06/09/2020)

06/09/2020		MINUTE ORDER. Before the Court is Plaintiff Aguiar's <u>20</u> Motion to Update Address, indicating that "prison officials now send general correspondence to a third party to be photocopied and then given to the inmate except legal mail" and that if the language "Legal Mail–Open in Presence of Inmate" is not included on the front of the envelope that his "letters/orders from the court [are] being sent to a third party to be photocopied and then destroyed." Mot. to Update Address at 2. It is hereby ORDERED that the government shall respond to Aguiar's <u>20</u> Motion on or before June 17, 2020, providing its views on if and how the process for Aguiar receiving legal mail from this Court has changed. Signed by Judge Carl J. Nichols on June 9, 2020. (lccjn1) (Entered: 06/09/2020)
06/09/2020		Set/Reset Deadlines/Hearings: Response to <u>20</u> due by 6/17/2020. (zcdw) (Entered: 06/09/2020)
06/17/2020	<u>21</u>	RESPONSE re <u>20</u> MOTION to Update Address filed by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS. (Attachments: # <u>1</u> Certificate of Service)(Brudy–Everett, Kristin) (Entered: 06/17/2020)
06/26/2020	<u>22</u>	MOTION to Award Cost by STEPHEN AGUIAR (Attachment: # <u>1</u> Certificate of Service)(eg) (Entered: 06/29/2020)
06/26/2020	<u>23</u>	NOTICE not to oppose defendant's motion by STEPHEN AGUIAR re <u>14</u> MOTION for Summary Judgment (Attachment: # <u>1</u> Certificate of Service)(eg) (Entered: 06/29/2020)
07/09/2020	<u>24</u>	Memorandum in opposition to re <u>22</u> MOTION to Award Cost filed by EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS. (Brudy–Everett, Kristin) (Entered: 07/09/2020)
07/20/2020	<u>25</u>	REPLY to opposition to motion re <u>22</u> MOTION to Award Cost filed by STEPHEN AGUIAR. (eg) (Entered: 07/21/2020)
07/27/2020	<u>26</u>	ORDER. Signed by Judge Carl J. Nichols on July 27, 2020. (lccjn1) (Entered: 07/27/2020)
08/11/2020	<u>27</u>	NOTICE OF APPEAL as to <u>26</u> Order on Motion for Miscellaneous Relief., Order on Motion for Summary Judgment by STEPHEN AGUIAR. Fee Status: IFP. Parties have been notified. (eg) (Entered: 08/13/2020)
08/13/2020	<u>28</u>	Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The fee was not paid because it was filed in forma pauperis re <u>27</u> Notice of Appeal. (eg) (Entered: 08/13/2020)